



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,780	10/30/2003	Eric T. Schmidt	SCET.110325	8881

7590 09/24/2004

Marshall Honeyman
SHOOK, HARDY & BACON L.L.P.
One Kansas City Place
1200 Main Street
Kansas City, MO 64105-2118

EXAMINER

LEGESSE, NINI F

ART UNIT	PAPER NUMBER
----------	--------------

3711

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/697,780	Applicant(s) SCHMIDT, ERIC T.	
	Examiner Nini F. Legesse	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's response to the Office Action of 04/13/04 is acknowledged on 07/02/04.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 25, 26, 27, 28, 29, 31,32, 33, 35, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (US Patent No. 5,297,796) in view of Blaisdell (US Patent No. 4,932,662).

With respect to claim 21, Peterson discloses a golf swing monitoring system comprising:

- A camera (36);
- A housing having a first and second portion (as seen on Fig. 1, half of the base element 20 wherein the monitor 38 is positioned is considered to be a first section and the portion wherein the golfer is standing is considered to be a second section);
- A display for displaying real-time images received by said camera (38), wherein said display being located in a plane substantially parallel to a simulated activity playing surface (see Figs. 1-3);

Art Unit: 3711

- Wherein at least a portion of said display is covered by a transparent protective covering (28);
- Wherein the device is portable (refer to column 2, lines 25-26);
- A target on said device at which a user swings (the artificial turf sections adjacent the window unit as disclosed on column 3, lines 35-40 is considered as a target area);
- Wherein the viewing area is embedded in a simulated sport playing surface (refer to Fig. 3. In this figure the device is shown under the floor).

Peterson discloses the invention as recited above but fails to provide a hingeably attached first and second portions and he fails show a handle. Blaisdell teaches the use of hinges to attach two portions of a golf apparatus (see Fig. 1. Column 2, line 59 indicates that the element is hinged along line 23) and he teaches the use of a handle (30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Peterson device with hinges as taught by Blaisdell in order to provide easy means for transporting the apparatus as stated in column 2, lines 61-62 of the Blaisdell's reference.

With respect to claim 29, Blaisdell includes markings that suggest foot placement (27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Peterson device with foot placement markings as taught by Blaisdell in order to assist the golfer to place his/her feet at the proper location.

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kaplan (US Patent No. 2,805,071).

The references as applied to claim 1 above fail to include the use of a tee. However he teaches that his device could be used with an artificial turf section laid on the base surface 20 or floor 56 adjacent the window 28 (as disclosed in column 3, lines 35+) so that the golfer could hit a practice ball. Blaisdell discloses positioning golf ball 19 directly on a playing surface (see Fig 1). And Kaplan teaches a golf tee (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tee line Kaplan since it was know in the art that a tee is used to position a golf ball. With respect to the tee to be located directly above a portion of the display, the tee of Kaplan (10) is capable of being positioned directly above a display. And since Applicant has not disclosed that positioning the tee directly above the display solves any stated problem or is for any particular purpose, it appears that the invention would perform equally well with Peterson's device.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (703) 605-1233. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vidovich Greg can be reached on (703) 308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NFL

09/20/04


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700